

**The State can not give an unqualified assurance that information claimed by the vendor to be confidential will be inaccessible to the public or an OPRA request. The State's effort to protect the confidentiality of such information will depend upon the facts of each confidential claim. If the bidder or vendor has a good faith basis to seek to exclude from disclosure portions of its bid that it believes constitutes a trade secret or proprietary commercial or financial information and the State agrees with that assessment (which State can only do after performing an in-depth analysis of the documents), the State would agree to assert confidentiality if a request were made to disclose the information. Thus, the bidder can make this assertion, but the State's treatment of the material will be based on the State's independent analysis of the materials and, thus, if the State disagrees with the bidder and someone seeks to view the materials, the bidder may have to seek judicial relief to prevent that from taking place. In other words, the State cannot agree up front that the materials will be kept confidential; rather, that decision is typically made well after receipt when a request for disclosure is made and State is asked whether such request should be honored.**